

# ISLAMIC BANKING & FINANCE

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## PRINCIPLES, INSTRUMENTS & OPERATIONS

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Hanifah Haydar Ali Tajuddin*



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# CONTENTS

Preface .....	i
Foreword .....	vii
Biographies of Contributors .....	xi
Abbreviation .....	xix
Table of Cases .....	xxi
Table of Legislation .....	xxv
Table of Articles .....	xxxi

## PART I

### INTRODUCTORY REMARKS

#### CHAPTER 1

#### ORIGIN AND DEVELOPMENT OF ISLAMIC BANKING AND FINANCE .....

1.1 <i>Shariah</i> -based Capital Financing in Pre-Islamic Arab Society .....	3
1.2 Historical Development of Islamic Banking in Asia and Europe .....	10
1.3 Islamic Banks Globally .....	17
1.4 Conclusion .....	28

## PART II

### THE SHARI'AH ASPECT

#### CHAPTER 2

#### GENERAL CONCEPT OF ISLAMIC LAW AND ITS SOURCES .....

2.1 Introduction .....	37
2.2 Definition and Basic Characteristics of Islamic Law .....	38
2.3 The Subject Matter of Islamic Law .....	42
2.4 Islamic Commercial Law .....	43
2.5 The Sources of Islamic Law .....	44
2.5.1 The Qur'an .....	45
2.5.2 The <i>Sunnah</i> .....	47
2.5.3 <i>Ijma</i> (Juristic Consensus) .....	48
2.5.4 <i>Qiyas</i> (Juristic Analogy) .....	49
2.6 The Secondary Sources of Islamic Law .....	51
2.6.1 Consideration of General Welfare ( <i>Istislah</i> ) .....	51
2.6.2 Custom (' <i>Urf</i> ) .....	52
2.7 Conclusion .....	53

#### CHAPTER 3

#### PPROHIBITED ELEMENTS IN *FIQH AL-MUAMALAT*: CAUSES THAT INVALIDATE TRANSACTIONS .....

3.1 <i>Riba</i> and Its Definition .....	57
3.1.1 Prohibition of <i>Riba</i> in the Holy Qur'an .....	58
3.1.2 Prohibition of <i>Riba</i> in the <i>Hadith</i> .....	60
3.1.3 Meaning and Classification of <i>Riba</i> .....	61
3.1.3.1 <i>Usury on Credit</i> ( <i>Riba Al-Nasiyyah</i> ) .....	63
3.1.3.2 <i>Usury in Sale</i> ( <i>Riba</i> <i>Al-Fadhl</i> ) .....	65
3.1.4 <i>Riba</i> Causes Injustice and Hardship .....	66
3.1.5 Distinction between <i>Riba</i> and Sale Transactions .....	69
3.2 Ambiguity ( <i>Gharar</i> ) .....	71
3.3 Gambling ( <i>Maysir</i> or <i>Qimar</i> ) .....	73
3.4 Prohibited ( <i>Haram</i> ) Properties .....	73

#### CHAPTER 4

#### ISLAMIC CONTRACTS FOR FINANCING (PART 1) .....

4.1 Partnership ( <i>Sharikah</i> ) .....	77
4.1.1 Division of <i>Sharikah</i> .....	77
4.1.2 Co-ownership ( <i>Sharikatul</i> <i>al-Amlak</i> ) .....	77
4.1.3 Contractual Partnership ( <i>Sharikatul 'Uqud</i> ) .....	78
4.1.4 Professional Partnership ( <i>Sharikatul Abdan</i> ) .....	79
4.1.5 Partnership upon Credit ( <i>Sharikatul Wujuh</i> ) .....	79
4.1.6 Equal Partnership ( <i>Sharikatul Mufawadah</i> ) .....	80
4.1.7 Multiple Parties Partnership ( <i>Sharikatul 'Inan</i> ) .....	80
4.1.8 The Conditions for the Capital .....	80
4.1.9 The Conditions for the Distribution of Profit and Loss .....	82
4.1.10 Management of <i>Musharakah</i> .....	83
4.1.11 Dissolution of <i>Musharakah</i> .....	83

4.2	Trade Partnership ( <i>Mudarabah</i> )	84
4.2.1	Pillars of <i>Mudarabah</i>	84
4.2.2	Conditions of <i>Mudarabah</i>	85
4.2.3	Division of the Profit	86
4.2.4	Types of <i>Mudarabah</i>	86
4.2.5	What a <i>Mudarib</i> Cannot Do	87
4.2.6	The Status of a <i>Mudarib</i>	88
4.2.7	Maintenance of a <i>Mudarib</i>	88
4.2.8	Void <i>Mudarabah</i>	89
4.2.9	Termination of a <i>Mudarabah</i>	89
4.3	The Main Differences between <i>Musharakah</i> and <i>Mudarabah</i> Contracts	90
4.4	Agency ( <i>Wakalah</i> )	91
4.4.1	The Necessity for an Agency	92
4.4.2	Conditions of <i>Wakalah</i>	93
4.5	The Types of <i>Wakalah</i>	94
4.5.1	Particular Agency/ <i>Wakalah</i> or Special Agency	94
4.5.2	General Agency/ <i>Wakalah</i>	94
4.5.3	Restricted Agency/ <i>Wakalah</i>	94
4.5.4	Absolute Agency/ <i>Wakalah</i>	94
4.5.5	<i>Wakalah</i> in Sale	95
4.5.6	<i>Wakalah</i> in Purchase	96
4.6	Can an Agent Appoint another Agent?	96
4.7	Agency and other Legal Relations	97
4.7.1	A Seller or an Agent	97
4.7.2	A Middleman or a Seller	97
4.7.3	An Agent or an Employee	97
4.7.4	Termination of an Agency	98
4.8	Safekeeping/Deposit ( <i>Al-Wadi'ah</i> )	98
4.8.1	The Pillars of <i>Wadi'ah</i> Contract	99
4.8.2	Conditions	99
4.8.3	Relationship between the Parties	99
4.8.4	When is the Depository Held Liable?	100
4.8.5	Using Deposited Money for Investment	102

## CHAPTER 5

### ISLAMIC CONTRACTS FOR FINANCING (PART 2)

5.1	The Contract of Sale ( <i>Bay'</i> )	105
5.2	The Subject-Matter and the Price	105

5.2.1	Important Conditions of a Sales Contract	106
5.2.2	Nonstandard Sale Conditions	107
5.2.3	Two Sales in One Sale	107
5.3	Classification of Sales	108
5.3.1	Trust Sales ( <i>Bay' al-Amanah</i> )	108
5.3.1.1	Cost-Plus-Profit Sale ( <i>Murabahah</i> )	108
5.3.1.2	Sale with No Profit ( <i>Tawliyah</i> )	109
5.3.1.3	Sale with Loss ( <i>Wadi'ah</i> )	109
5.4	Deferred Payment Sale ( <i>Bay'</i> <i>Bithaman Ajil</i> ) or BBA	109
5.5	Tripartite Sale ( <i>Bay' al-Tawarruq</i> )	110
5.6	Deferred Delivery Sale ( <i>Salam</i> )	111
5.6.1	Legality	111
5.6.2	Conditions	112
5.7	Manufacturing Sale ( <i>Istisna</i> )	113
5.7.1	The Legality for <i>Istisna</i>	114
5.7.2	Conditions	114
5.7.3	Options of <i>Istisna</i>	115
5.8	Lease and Employment ( <i>Ijarah</i> )	116
5.8.1	Legality of <i>Ijarah</i>	116
5.8.2	Types of <i>Ijarah</i>	117
5.8.3	The Pillars of <i>Ijarah</i>	118
5.8.3.1	Conditions for the Usufruct/Service	118
5.8.3.2	Conditions for the Wage	119
5.8.3.3	Maintenance of the Leased Asset	119
5.8.3.4	Sale of Leased Asset	120
5.8.4	Termination of <i>Ijarah</i>	120

## PART III

### RIBA (INTEREST)

## CHAPTER 6

### GESSEL'S CONCEPT OF FREE-MONEY

### ELIMINATING INTEREST THROUGH INFORMATION-MONEY

6.1	Introduction	123
6.2	Literature Review	125
6.2.1	Classical Theory	125
6.2.2	Liquidity Preference Theory	125
6.2.3	Horizontalist Theory	126
6.2.4	Wicksellian Theory	127
6.3	Silvio Gessel and the 'Tribute' on Money Usage	127



8.7.1 Application of Third Party Guarantee in <i>Sukuk</i> .....	213
8.8 Conclusion .....	214

## CHAPTER 9 OVERVIEW OF ISLAMIC MICROFINANCE .....

9.1 Introduction .....	219
9.2 Review of the Literature .....	221
9.3 Islamic Microfinance .....	226
9.3.1 Definition of Islamic Microfinance .....	226
9.3.2 Poverty Alleviation as an Objective of <i>Shari'ah</i> .....	227
9.3.3 Microfinance Models .....	230
9.4 Financial Instruments of Islamic Microfinance Institutions (MFIs) .....	232
9.5 Islamic MFIs vs. Conventional MFIs .....	234
9.6 Problems Faced by MFIs .....	236

## CHAPTER 10 TAKAFUL: THE MALAYSIAN EXPERIENCE .....

10.1 Introduction .....	241
10.2 Risk Mitigation in Islam .....	244
10.3 <i>Takaful</i> Concept and Principles .....	246
10.4 Differences between <i>Takaful</i> and Conventional Insurance .....	247
10.5 Malaysia's Comprehensive <i>Takaful</i> System .....	250
10.6 <i>Takaful</i> Challenges .....	252
10.6.1 Legal, Regulatory and Standardisation .....	252
10.6.2 Corporate and <i>Shari'ah</i> Governance .....	253
10.6.3 Expertise and Manpower .....	253
10.6.4 Accounting Standards .....	254
10.6.5 <i>Shari'ah</i> -Compliant Rating .....	254
10.6.6 <i>Takaful</i> for the Poor and Disadvantaged .....	255
10.6.7 <i>Shari'ah</i> -Compliant Dispute Resolution System .....	255
10.7 Conclusion .....	256

## PART V REGULATORY FRAMEWORK OF ISLAMIC FINANCE

### CHAPTER 11 ISLAMIC BANKING BUSINESS IN MALAYSIA: THE REGULATORY ASPECTS .....

11.1 Introduction .....	259
11.2 Islamic Banks: Its Emergence .....	261
11.3 Banking Facilities of Islamic Banks .....	265
11.4 Islamic Financial System under the Central Bank of Malaysia Act 2009 (Act 701) .....	266
11.5 Dual Nature of the Malaysian Financial System .....	269
11.6 Relationship between <i>Shari'ah</i> Committees of the Islamic Financial Institutions and the <i>Shari'ah</i> Advisory Council (SAC) of Bank Negara Malaysia (BNM) .....	271
11.7 Binding Nature of the SAC's Rulings .....	273
11.8 Islamic Banks: Licensing and Regulations .....	277
11.8.1 The Definition of 'Islamic Bank' and 'Islamic Banking Business' .....	277
11.9 Obtaining a Licence to Operate as an Islamic Bank .....	281
11.10 Operations of Islamic Banking Divisions of Conventional Banks under the Banking and Financial Institutions Act 1989 (BAFIA) .....	286
11.11 Jurisdiction of Courts in Islamic Banking Disputes .....	289
11.12 Conclusion .....	291

### CHAPTER 12 REGULATION OF ISLAMIC BANKS IN RELATION TO ANTI-MONEY LAUNDERING AND COUNTER FINANCING OF TERRORISM (AML/CFT): THE MALAYSIAN SCENARIO .....

12.1 Introduction .....	295
12.2 International Regulation on Anti-Money Laundering and Counter Financing of Terrorism (AML/CFT) .....	298

12.3	The Anti-Money Laundering and Anti-Terrorism Financing Act 2001 (AMLATFA) .....	300
12.4	Development of Islamic Banking in Malaysia and its Compliance with AML/CFT Laws and Regulations .....	310
12.5	Conclusion .....	314

## PART VI RESOLUTION OF THE ISLAMIC FINANCE DISPUTES

### CHAPTER 13 DISPUTE SETTLEMENT MECHANISMS - THE MALAYSIAN APPROACH .....

13.1	Introduction .....	317
13.2	Jurisdiction of Courts .....	318
13.3	Legal Framework .....	321
13.4	Situation Prior to Central Bank of Malaysia Act 2009 .....	327
13.4.1	<i>Is Bay' Bithaman Ajil</i> Contrary to the Islamic Banking Act 1983 and Banking and Financial Institution Act 1989? .....	330
13.5	Central Bank of Malaysia Act 2009 .....	334
13.6	Developments After the New Central Bank of Malaysia Act 2009 .....	337
13.7	Alternative Dispute Resolution Mechanisms for Islamic Banking and Finance Cases .....	340
13.7.1	Arbitration .....	341
13.7.2	Mediation .....	343
13.8	Conclusion .....	346

### CHAPTER 14 BETWEEN THE CLASSICAL AND MODERN MECHANISMS OF DISPUTE RESOLUTION .....

14.1	Introduction .....	351
14.2	Classical Mechanisms of Dispute Resolution in Islamic Law .....	352
14.3	Polemics Over the Modern Framework of Alternative Dispute Resolution .....	357

14.3.1	Excessive Delay and Costs .....	357
14.3.2	Racial Bias .....	359
14.3.3	Continued Reluctance to Use 'Equity' and 'Amiable Composition' .....	360
14.3.4	Excessive Judicial Intervention and Formalism .....	363
14.4	Rules for Arbitration of Kuala Lumpur Regional Centre for Arbitration .....	365
14.4.1	The Model Arbitration Clause .....	366
14.4.2	Applicable Law .....	367
14.4.3	Amiable Composition .....	368
14.4.4	Superseding Application of UNCITRAL Rules .....	369
14.5	Synchronising of the Legal Framework .....	369
14.6	Conclusion .....	370

### CHAPTER 15 SULH AS A FORM OF DISPUTE RESOLUTION .....

15.1	Introduction .....	373
15.2	Methods of Alternative Dispute Resolution (ADR) .....	374
15.3	Alternative Dispute Resolution, Sulh and the Traditions of Islamic Law .....	376
15.4	Islamic Legal System .....	376
15.5	Sulh-Traditional Islamic ADR .....	378
15.5.1	The Workings of Sulh .....	378
15.5.2	Sulh Represents the 'Best of Judgments' .....	380
15.6	Conclusion .....	382

### CHAPTER 16 MEDIATION IN ISLAMIC BANKING .....

16.1	Introduction .....	385
16.2	Definition and Types of Mediation .....	387
16.3	Mediation and <i>Shariah</i> .....	391
16.4	Malaysian Judiciary and Mediation .....	395
16.5	Lawyers and Mediation in Malaysia .....	396
16.6	Mediation in Islamic Commercial Banks .....	400

16.7	Mediation of Disputes and Customer Grievances .....	403
16.8	Financial Mediation Bureau - Mediation of Disputes and Customer Grievances .....	407
16.9	Benefits and Advantages of Mediation .....	411
16.10	Conclusion .....	414

## PART VII CORPORATE GOVERNANCE

### CHAPTER 17 GOVERNANCE OF ISLAMIC BANKS IN MALAYSIA: CHALLENGES AND PROSPECTS .....

17.1	Jurisdiction over Islamic Banks According to Constitution .....	417
17.2	Regulation of Islamic Banks .....	419
17.3	Rationale of Islamic Banking .....	421
17.4	Jurisdictional Issues .....	423
17.5	Judicial Interpretation of art. 121(1A) .....	426
17.6	Judicial Decisions in Islamic Banking Disputes .....	430
17.7	<i>Shari'ah</i> Courts as Adjudicators of Islamic Banking Disputes .....	432
17.8	Conclusion .....	434

### CHAPTER 18 SUPERVISION OF ISLAMIC BANKS: WITH REFERENCE TO MALAYSIA .....

18.1	Introduction .....	437
18.2	Role of <i>Shari'ah</i> Supervisory Board .....	441
18.3	Role of <i>Shari'ah</i> Advisory Council with Reference to the Central Bank of Malaysia Act 2009 .....	445
18.4	Controversies Surrounding the Supervision of Islamic Banks .....	452
18.5	Conclusion .....	461

## PART VIII REGIONAL IMPLEMENTATION OF ISLAMIC FINANCE

### CHAPTER 19 THE DEVELOPMENT OF ISLAMIC FINANCE IN MALAYSIA .....

19.1	Islamic Finance Industry .....	465
19.2	Growth of Islamic Banking and Finance .....	472
19.3	<i>Takaful</i> - The Preferred Choice .....	476
19.4	Islamic Securities - The Way Forward .....	479
19.5	Conclusion .....	483

### CHAPTER 20 REGIONAL IMPLEMENTATION OF ISLAMIC FINANCE: THE MIDDLE EAST EXPERIENCE .....

20.1	Emergence and Growth of Islamic Finance .....	488
20.2	<i>Sukuk</i> Market .....	494
20.3	Regulation of Islamic Finance .....	496
20.4	Challenges .....	498
20.5	Conclusion .....	500

### CHAPTER 21 ISLAMIC BANKING AND FINANCE IN THE UNITED KINGDOM .....

21.1	Introduction .....	503
21.2	Development of Islamic Banking .....	504
21.2.1	Establishment of the First Standalone Islamic Bank - Islamic Bank of Britain .....	507
21.2.2	Recent Developments .....	511
21.3	United Kingdom's Legal Framework for Islamic Banking .....	512
21.3.1	Role of the Financial Services Authority and the Authorisation of Islamic Banks .....	513
21.3.2	Amendments to United Kingdom's Legislative .....	519
21.4	Approach of the English Courts .....	523
21.5	Conclusion .....	533



**CHAPTER 22****ISLAMIC BANKING AND FINANCE IN FRANCE ..... 535**

22.1 Licensing and Supervision of the Financial Institutions .....	538
22.1.1 Legal Authorisation of the Entities as Credit Institutions .....	541
22.1.2 Banking Activities of Credit Institutions .....	544
22.2 Authorisation of the Islamic Banks .....	547
22.2.1 Necessary Amendments to the Existing French Law .....	550
22.3 Islamic Finance in France - A Way Forward .....	552
22.4 Conclusion .....	560

**CHAPTER 23****ISLAMIC BANKING AND FINANCE - THE AUSTRALIAN WAY ..... 561**

23.1 Introduction .....	563
23.2 Islamic Banking and Finance (IBF) in the Australian Social Context .....	564
23.3 The Regulatory Framework .....	566
23.4 The Perceptions of the Financial Players .....	578
23.5 Conclusion .....	591

**PART IX****CONTENTIOUS ISSUES, CHALLENGES, AND PROSPECTS****CHAPTER 24****CRITICAL THOUGHTS ON ISLAMIC BANKING: CONCEPT, PRACTICE AND CASE LAWS ..... 593**

24.1 Introduction .....	595
24.2 Phenomenal Growth in Islamic Banking .....	596
24.3 Terminologies .....	597
24.4 Sources of Islamic Law .....	598
24.4.1 Mejlle .....	601
24.5 Concept in Islamic Banking .....	602
24.6 Concept of Justice, Legal Stratagem and <i>Shari'ah</i> .....	603
24.6.1 Legal Stratagem .....	604

24.6.2 Are the Trading and/or Contractual Concept in Islam Different from the Common Law? .....	605
24.6.3 Subject Matter of Contract .....	606
24.6.4 Capacity to Contract .....	607
24.6.5 Wagering Contracts ( <i>Qimar</i> and <i>Maysir</i> ) .....	607
24.6.6 Fraud .....	608
24.6.7 Contingent Contracts .....	608
24.6.8 <i>Shari'ah</i> -Compliance ( <i>Maqasid al-Shari'ah</i> ) .....	608
24.6.9 Concept of Damages .....	608
24.6.10 Permissibility Doctrine .....	609
24.6.11 Valid, Voidable and Void Contracts ( <i>Sahih</i> , <i>Fasid</i> and <i>Batil</i> ) .....	609
24.6.12 Option ( <i>Khiyarat</i> ) .....	610
24.7 Common Law and <i>Shari'ah</i> Contracts .....	610
24.7.1 Contract of Sale .....	612
24.8 Classification of Contract of Sale .....	613
24.8.1 Guarantee ( <i>Kafalah</i> ) .....	613
24.8.2 Contract of Assignment ( <i>Hawalah</i> ) .....	614
24.8.3 Contract of Pledge ( <i>Rahn</i> ) .....	614
24.8.4 Leasing or Rental Contract ( <i>Ijarah</i> ) .....	615
24.8.5 Agency Contracts ( <i>Wakalah</i> ) .....	615
24.9 Cases and Arguments on <i>Riba</i> .....	616
24.10 Role of Court .....	619
24.11 Legal Stratagem and Circuitous Logic .....	620
24.12 Case for Legislation .....	621
24.12.1 Object and Scope of Legislation .....	622
24.13 Conclusion .....	624

**CHAPTER 25****BAY' BITHAMAN AJIL: GRAVE AND SERIOUS ISSUES TO BE TRIED ..... 625**

25.1 Introduction .....	627
25.2 Islamic Banking Business .....	628
25.3 <i>Bay' Bithaman Ajil</i> (BBA) .....	628
25.3.1 Housing Development (Control and Licensing) Act 1966 and the Regulations and the Contracts Act 1950 .....	628

25.4 Islamic Banking under BBA ( <i>Gharar, Dharar</i> ) .....	631
25.4.1 Islamic Banking Case 1 .....	631
25.4.2 Islamic Banking Case 2 .....	632
25.4.3 Islamic Banking Case 3 .....	633
25.4.4 Islamic Banking Case 4 .....	633
25.5 Loan or Sale? .....	635
25.5.1 Islamic Perspective: <i>Istihsan</i> and <i>Bay' al-'inah</i> .....	637
25.6 Conclusion .....	639

## CHAPTER 26

### IBRA' AND ITS PRACTICE BY THE ISLAMIC BANKS: WITH REFERENCE TO MALAYSIA .....

26.1 Introduction .....	643
26.2 Concept of <i>Ibra'</i> .....	644
26.2.1 <i>Ibra'</i> in Cases of Early Settlement of Debts .....	645
26.2.2 Resolutions and Guidelines on <i>Ibra'</i> .....	648
26.2.3 <i>Ibra'</i> and Termination of Contracts due to Default by Customers .....	650
26.3 Malaysian Courts Approach .....	652
26.3.1 <i>Ibra'</i> - Tool to Attain Justice .....	652
26.3.2 Court of Appeal - Payment of the Full Sale Price .....	660
26.3.3 <i>Ibra'</i> Based on Implied Terms of Contract .....	662
26.3.4 Court of Appeal - <i>Bank Islam Malaysia Bhd v. Azhar Osman &amp; Other Cases</i> .....	670
26.4 Conclusion .....	671

## CHAPTER 27

### PROFIT-LOSS SHARING MECHANISM IN ISLAMIC BANKING AND FINANCE .....

27.1 Introduction .....	675
27.2 Interest ( <i>Riba</i> ) .....	676
27.2.1 Alter the Environment, Not Contracts .....	679
27.3 Profit-Loss Sharing (PLS) as the Foundation of Islamic Banking and Finance .....	681
27.4 Concept and Nature of PLS .....	685

27.5 <i>Musharakah</i> Based on PLS .....	690
27.6 <i>Mudarabah</i> Based on PLS .....	693
27.7 Conclusion .....	695

## CHAPTER 28

### THE MAQASID FILTER IN TAKAFUL AUDIT .....

28.1 Introduction .....	699
28.2 The <i>Maqasid</i> Pinnacle .....	703
28.3 The <i>Maqasid</i> of Wealth .....	705
28.4 The <i>Maqasid</i> Filter .....	705
28.5 <i>Maqasid</i> -based Audit .....	711
28.6 Conclusion .....	713

## CHAPTER 29

### BARRIERS TO GROWTH OF ISLAMIC FINANCE: ISSUE OF STANDARDISATION .....

29.1 Introduction .....	717
29.2 Overview of Islamic Finance .....	718
29.3 Barriers to Growth .....	722
29.4 Standardisation: What Does It Mean? .....	727
29.5 Literature Review .....	728
29.6 A Need for Standardisation .....	729
29.7 Standardisation of Financial Instruments and Their Documentation .....	731
29.8 Institutions Supporting Standardisation Process of Islamic Finance .....	733
29.9 Conclusion .....	736

Index .....	739
-------------	-----

Glossary .....	765
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## **CHAPTER** ISLAMIC CONTRACTS FOR **5** FINANCING (PART 2)

*by Muhammad Yusuf Saleem\**

### **5.1 The Contract of Sale (*Bay'*)**

The Arabic word for sale is *bay'*. *Bay'* literally means exchange, and applies to both sale and purchase. Technically, sale refers to an exchange of one property for another, one of which is called the subject-matter/object, and the other the price. Sale can also be defined as a transfer of ownership of property for a consideration or compensation. The effect of a sale contract is to transfer the ownership of the property from the seller to the purchaser and the ownership of price from the purchaser to the seller.

The Qur'an states: 'But Allah has permitted sale and forbidden usury.' (2: 275)

The Prophet (p.b.u.h.) is also reported to have said: 'The best earning is where a person earns through his own efforts and all sale transactions that are free from deception and cheating'.<sup>1</sup>

### **5.2 The Subject-Matter and the Price**

The subject-matter or the thing sold, is the principal object of a sales contract. A person purchases it in order to benefit from it. The price, on the other hand, is a medium of exchange that facilitates the acquisition of a thing. Usually, the preposition 'for' is mentioned before the price. For example, the computer is sold *for* RM2000. The subject-matter of a sales contract must be present. The price, on the other hand, may be paid on the spot, deferred or paid by instalments.

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1 Musnad Ahmad, Hadith Rafe' bin Khadij, vol. 37, p. 217, no. 17728.